



Honorable August B. Landis
United States Bankruptcy Judge



Entered on Docket
February 18, 2014

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

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In re:)	Case Nos. 14-10355-abl and
)	14-10357-abl
MARTIFER AURORA SOLAR,)	
LLC,)	Jointly Administered under
)	Case No. 14-10355-abl
<input type="checkbox"/> Affects Martifer Aurora Solar,)	
LLC)	Chapter 11
)	
<input type="checkbox"/> Affects Martifer Solar USA, Inc.)	Hearing Date: February 14, 2014
)	
<input checked="" type="checkbox"/> Affects all Debtors)	Hearing Time: 1:30 p.m.

**ORDER ON DEBTORS' EMERGENCY MOTION FOR AN ORDER:
(I) AUTHORIZING DEBTOR TO PAY PREPETITION EMPLOYEE SALARIES AND
BENEFITS; AND (II) AUTHORIZING AND DIRECTING FINANCIAL INSTITUTIONS
TO HONOR CHECKS RELATED TO SUCH OBLIGATIONS¹**

This matter came on for hearing before the Court at the date and time specified in the caption pursuant to Debtors' Emergency Motion for an Order: (I) Authorizing Debtor to Pay Prepetition Employee Salaries and Benefits; and (II) Authorizing and Directing Financial Institutions to Honor Checks Related to Such Obligations² filed by Martifer Aurora Solar, LLC and Martifer Solar USA, Inc. (collectively "Martifer"), and creditor Cathay Bank's responsive Statement of Position re Debtor's Emergency Motion for Authorization to Pay Prepetition

¹In this Order, references to "ECF No." are to the numbers assigned to the documents filed in the case as they appear on the docket maintained by the Clerk of the Court.

²ECF No. 92.

1 Employee Salaries and Benefits, Etc.³ Dawn M. Cica appeared on behalf of Martifer. Reed S.
2 Waddell and Natalie M. Cox appeared on behalf of Cathay Bank. Samuel A. Schwartz appeared
3 on behalf of Martifer Solar, Inc. J. Michal Bloom appeared on behalf of Tracy Hope Davis,
4 United States Trustee for Region 17. Other appearances were noted on the record.

5 The Court has reviewed Martifer's motion, the supporting declaration of Roland Kiser⁴,
6 and Cathay Bank's responsive statement.⁵ The Court has also considered the arguments of
7 counsel at the February 14, 2014 hearing, and is fully advised as to the issues pending before it.
8 To the extent that the Court made findings of fact and conclusions of law on the record at the
9 February 14, 2014 hearing, they are incorporated into this written order pursuant to FED. R. CIV.
10 P. 52, made applicable to this contested matter pursuant to FED. R. BANKR. P. 9014(c) and 7052.
Based upon the record before the Court:

11 **IT IS ORDERED** that the motion is **GRANTED IN PART AND DENIED IN PART**
12 as set forth in this Order.

13 The Motion is **DENIED** with respect to:

- 14 a. The prepetition Employee Salary Obligations (as that term is defined in
15 Paragraph 12 of the motion); and
16 b. The prepetition Employee Deductions (as that term is defined in
17 Paragraph 14 of the motion) related to the prepetition Employee Salary
18 Obligations.

19 All of Martifer's employees had received payment of their prepetition Employee Salary
20 Obligations, net of their prepetition Employee Deductions, prior to the February 14, 2014
21 hearing. As a result, the doctrine of necessity had been rendered inapplicable prior to the

22 ³ECF No. 130.

23 ⁴ECF No. 93. Mr. Kiser is the Chief Executive Officer of debtor Martifer Solar USA,
24 Inc.

1 hearing, and no issue required resolution by the Court as to those sums.

2 The motion is **GRANTED** to the extent that Martifer requests authorization to honor and
3 pay, in an amount not to exceed \$12,475 per employee:

- 4 a. Any prepetition Employee Benefits Contributions (as that term is defined
5 in Paragraphs 15 - 20 of the motion) owed to Martifer employees that had
6 accrued but remained unpaid on January 21, 2014 ("Petition Date"); and
7 b. Any Employee Paid Time Off (as that term is defined in Paragraph 21 of
8 the motion) for employees that had accrued but remained unpaid on the
9 Petition Date.

10 The motion is further **GRANTED** to the extent that Martifer requests authorization to
11 pay any Employee Reimbursable Business Expenses (as that term is defined in Paragraph 26 of
12 the motion, and including credit card expenses detailed in Paragraphs 27 and 28) that had
13 accrued but remained unpaid on the Petition Date.

14 To the extent that the motion seeks authorization for Martifer to honor and pay Employee
15 Salary Obligations, Employee Deductions, Employee Benefits Contributions, Employee Paid
16 Time Off, and/or Employee Reimbursable Business Expenses post-petition, the Court makes no
17 ruling, noting only that Martifer is authorized to operate its business pursuant to 11 U.S.C.
18 §§ 1107 and 1108, subject to all other applicable provisions of the Bankruptcy Code. Further,
19 nothing in this order shall be construed as authorizing Martifer to reimburse any payments within
20 the scope of this order that have previously made by any non-debtor entity(ies) to, or for the
21 benefit of, Martifer's employees.
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1 Notice and copies sent through:

2 CM/ECF ELECTRONIC NOTICING AND/OR BNC

3 and sent via FIRST CLASS MAIL BY THE COURT AND/OR BNC to:

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